



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

015/032 #5  
Norman H. Bangerter, Governor  
Dee C. Hansen, Executive Director  
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

December 29, 1987

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
(#P 402 458 593)

Mr. Robert Hagen, Director  
Albuquerque Field Office  
Office of Surface Mining  
Reclamation & Enforcement  
Suite 310, Silver Square  
625 Silver Avenue, S. W.  
Albuquerque, New Mexico 87102

Dear Mr. Hagen:

Re: TDN #X-87-02-006-017, Genwal Coal Company, Crandall Canyon Mine,  
ACT/015/032, Folder No. 5, Emery County, Utah

This letter responds to the above-referenced Ten-Day Notice (TDN), the certified copy of which was received at the Division's offices on December 21, 1987.

1. Number 1 of 15 reads: "Operator has failed to provide a map showing the boundaries of all areas proposed to be affected. Plate 2-1 (the permit area map) does not include the three topsoil storage areas and excludes the Class 1 road."

Response - Plate 3-1, Proposed surface facilities, dated July 3, 1986, (received July 8, 1986) refers the reviewer to Plate 3-8 for topsoil stockpile locations. Plate 3-8, topsoil storage piles, dated July 3, 1986, (received July 14, 1986), adequately identifies the location of the stockpiles in respect to the public access road. All stockpiles identified on Plate 3-8 have disturbed and permit area boundaries delineated. To facilitate future review, the Division will request the operator to include the location of the three stockpiles on Plate 2-1. The operator response deadline will coincide with the five-year permit

submittal, January 13, 1988. The operator has been notified about this concern in a Division letter dated December 23, 1987. The Division will respond by the permit deadline of May 13, 1988. No Notice of Violation (NOV) is appropriate for Number 1 of 15.

Plate 2-1, dated May 30, 1986, (received June 10, 1986), clearly depicts the road use permit area, Class 1 road. No Notice of Violation (NOV) is appropriate for Number 1 of 15.

2. Number 2 of 15 reads: "Operator has failed to provide a description of all coal removal, handling, storage, cleaning and transportation areas and structures. Chapter 3, pages 6-7, does not address the coal processing facility onsite."

Response - As outlined in the October 21, 1987 Inspection Report, the operator was granted an eight-week approval, to begin from the date of initial implementation (as requested September 22, 1987), for a temporary modification to the permit for an on-site coal processing and truck loadout facility. The final date for use has expired. However, the operator has submitted a request to the Division, November 20, 1987, (received November 25, 1987), for a 60-day extension to the temporary facility. The Division is currently waiting for approval notification from the United States Forest Service (USFS) and the Department of Air Quality. The temporary processing unit was not in use at the time of the inspection. Snow cover, the small pile of sorted coal (less than three cubic yards, visual estimate), and the extremely large pile of unsorted coal which was being loaded onto tandem trucks at the time of inspection, indicated that the temporary screener has not been in use. The operator has moved the equipment aside as far from the operation as possible. No NOV will be issued on Number 2 of 15.

3. Number 3 of 15 reads: "Operator has failed to comply with the terms and conditions of the permit (by not satisfying all stipulations. Permit Ut-0067 (Tract 2) second condition and Permit ACT/015/032 (Tract 1) 800 condition."

Response - Tract 1: On December 1, 1987 the Division found that the operator had completed Genwal Coal Company's obligations to the August 5, 1986 Mid-Term Permit Approval.

Tract 2: The operator has submitted to the Division, December 16, 1987, (received December 17, 1987), a response to Items 12

and 13 of the USFS concerns. The USFS was contacted by telephone December 18, 1987 by the Division, requesting a notification status of their outstanding concerns. The Division has submitted a copy of the operator's December 18, 1987 letter to the USFS. The Division is currently waiting for a response from the USFS. No NOV will be issued for Number 3 of 15.

4. Number 4 of 15 reads: "Operator has failed to file an application for renewal of a permit, with the Division, at least 120 days before the expiration of the permit. Permit ACT/015/032."

Response - The Division's December 13, 1982 five-year permit approval contained various conditions. On May 12, 1983 the Division notified Genwal Coal Company that the latest submissions were sufficient to adequately address all remaining deficiencies but one. The Division inadvertently placed the May 12, 1983 Final Permit Approval as the date of issuance. Hence, the renewal date has been considered May 13, 1988 by the Division and Genwal Coal Company. Based on a final date of permit issuance of May 12, 1983, the Division considers the 120-day period before application expiration to be January 13, 1988, with the expiration date being May 13, 1988. We provided your staff at an earlier date with a list of significant permit dates that support the May 13, 1988 date. Based on this list, I feel the TDN was inappropriately issued and Number 4 of 15 should be withdrawn.

5. Number 5 of 15 reads: "Operator has failed to provide a detailed description of the proposed use, following reclamation, of the land to be affected within the proposed permit area by surface operations or facilities."

Response - Page IV-7, Part 4.5, Postmining Land-Use, refers the reader to Part 4.4.2, Land-Use in Mine Plan Area. The first sentence states: "Prior to 1939, the permit area was used for dispersed, non-developed recreation and grazing by native big game species." The first sentence of the second paragraph states: "After mining operations cease, the area will be restored to support uses it was capable of supporting prior to mining." The applicant also states in the last sentence of Paragraph 2 that "The access road will be left in place, pursuant to the wishes of the USFS (surface owner)." The Division considers this adequate in defining the post-operative

land use. I am surprised your inspector overlooked this, based on Office of Surface Mining Reclamation and Enforcement's (OSMRE) customary detailed reviews. In any event, the detail is in the permit, and Number 5 of 15 should be withdrawn.

6. Number 6 of 15 reads: "Operator has failed to have combined upstream and downstream side slopes of the settled embankment equal to or better than 1v:5h - the sediment pond."

Response - Part 7.2.1.3 Stability Analysis of the approved permit discusses the slope of the sediment pond. Due to the topographic constraints of the narrow canyon, the sediment pond upstream and downstream slope was constrained at a 2h:1v. Analysis, design for justification of the slopes and certification of the sediment pond is found in Appendix 7-6. Appendix 7-8 contains information submitted to be in compliance with 30 CFR 77.216-1 and 30 CFR 22.216.2. Number 6 of 15 indicates your inspector's evident inability to look at a technical issue beyond the narrow verbiage of a regulation. The Division feels that the requisite regulations were appropriately addressed in the permit, and will not issue an NOV on Number 6 of 15.

7. Number 7 of 15 reads: "Operator has failed to describe a monitoring plan that would result in quarterly reports to the Division. Tract 1 Volume, Chapter 7, pg 58a proposes annual reporting of some surface water data."

Response - The Division concurs with this discrepancy. Because the monitoring plan is for the post-operative reclamation phase and not the operational phase, the Division does not feel that enforcement action is warranted. The Division will rectify this situation during the five-year permit renewal. The applicant will be required to submit an updated monitoring plan by January 13, 1988, as outlined in a letter dated December 23, 1987. The Division will respond by the permit deadline of May 13, 1988.

8. Number 8 of 15 reads: "Operator has failed to certify the construction of a Class 1 road - the main access, haulroad."

Response - The Class 1 road plans are in the plan as provided by a request from the USFS as part of the cooperative agreement to maintain plans with the permit, even though the Class 1 road is excluded from the permit area. Due to this exclusion, Number 8 of 15 should be withdrawn.

9. Number 9 of 15 reads: "Operator has failed to comply with the terms and conditions of the permit (by not installing a sprinkler system to water the 30%+ slopes) - all of the 30% slopes."

Response - The Division is aware of this situation and has asked the operator in a December 23, 1987 letter to update the plan in such a manner to clarify the intent of irrigation. The operator response is to be included in the January 13, 1988 permit application package. The Division will respond by the permit deadline of May 13, 1988. The Division feels compliance is being achieved without resorting to enforcement action at this time.

10. Number 10 of 15 reads: "Operator had failed to provide a complete after-construction report - the only sediment pond."

Response - Sediment pond design analysis and certification can be found in Appendix 7.6 and Plate 4. The Division approved the certified as-built designs March 4, 1987. No enforcement action will be taken. Since the requisite data are clearly in the permit, Number 10 of 15 should be withdrawn.

11. Number 11 of 15 reads: "Operator has failed to comply with the terms and conditions of the permit (by not monitoring surface and ground water as per the approved plan) - for 1987."

Response - The quarterly monitoring reports submitted to the Division have been found in the Division's files. The quarterly reports indicate that both the surface and ground water monitoring plan are being followed according to plan. No enforcement action is required.

12. Number 12 of 15 reads: "Operator has failed to construct drainage pipes and culverts so as to avoid plugging or collapse. - culverts 2,3,4."

Response - During a follow-up field visit December 21, 1987, the drainage and culverts were inspected. The following was noted:

A) Culvert C-2 has been cleaned out and the inlet and outlet have been reconstructed to twenty-four inches.

B) The previously inspected C-3 (3/4 full of sediment) is not C-3 and is not in use. Culvert C-3 runs directly from

the drainage from C-2 to the sediment pond. This culvert, C-3, is clear and measures to be twenty-four inches wide. The culvert that is 3/4 full of sediment is not on Plate 7-5.

C) The inlet of C-4 has been reconstructed from its previous size of nineteen inches to twenty-four inches. Based on low potential for water flow in December at this site and voluntary maintenance due to the inspection, no violation is appropriate on Number 12 of 15.

13. Number 13 of 15 reads: "Operator has failed to comply with the terms and conditions of the permit (by not constructing and maintaining the diversions and culverts as per the approved plan) -UD-1, UD-3, DD-3."

Response - During a follow-up field visit December 21, 1987, the drainage pipes and culverts were inspected. Riprap has been installed on the inlet of UD-1 as required by the plan, and diversion DD-3 has been reconstructed. In the fall of 1986 the Division conducted field investigations of the discharge condition of the outlet of UD-3. At the time of the investigation, Division personnel informed Mr. King that plans for the diversion structure of UD-3 would not be required, due to stable bedrock conditions in the existing drainage. The designs were inadvertently left in the Division's copy of the Permit Application Package. No violation will be issued by the Division of Oil, Gas & Mining (DOGM) for Number 13 of 15.

14. Number 14 of 15 reads: "Operator has failed to clearly mark the perimeter of all areas affected by surface operations or facilities - the entire southern permit boundary."

Response - During the follow-up inspection previously noted, the perimeter markers were checked. All appropriate perimeter markers have been repainted for clear visual inspection, and more perimeter markers have been installed surrounding the southern permit area such that the permit area is easily identifiable in the field. The Division does not agree with OSMRE's arbitrary interpretation of "Failing to clearly mark." The willingness of Genwal Coal to rectify this situation with additional markers is appreciated, however.

15. Number 15 of 15 reads: "Operator has failed to comply with the terms and conditions of the permit (by not posting the pond's sediment marking stakes)."

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Response - The sediment marker posts are installed in the pond as delineated on the engineering certified Plate 4, Sediment Pond (As-Built), dated December 26, 1986, received December 30, 1986. No enforcement action will be taken. Since the markers were in place in the field, I recommend this portion of the TDN (Number 15) be withdrawn. Some common sense must be applied in inspection, and I feel that issuance of a TDN for this type of problem costs both of our agencies time, and costs OSMRE considerable credibility.

To summarize, the Crandall Canyon mine site is a surface disturbance of approximately five acres. Your inspector spent seven hours at the site, (one day), doing paper work, and an additional five hours on a second day conducting a field inspection. The permit in question is a two-volume submission that has recently completed a successful Mid-Permit Term Review and (by your inspector's admission) is one of the better Utah permits. If this type of field inspection time requirement followed by issuance of a fifteen-citation TDN (much of which is invalid) is representative of the direction taken by OSMRE subsequent to the 50% reduction in oversight inspector frequency, I fear erosion of the functional credibility of your agency can be the only logical outcome. In the labyrinth of regulations that must be addressed to achieve an approved Mining and Reclamation Permit, there are many opportunities for subjective interpretation, and this is to the advantage of both the regulators and the coal industry. The Genwal mine site is a clean, well-engineered site with an adequate Mining and Reclamation Plan that is a reflection of the Division's insistence on having such a plan and the Genwal Coal Company's willingness to perform the requisite compliance work. The magnitude of the issues delineated and the number of citations in TDN X-87-02-006-017 are a discredit to the quality of the Permit and the integrity of the Division and Genwal Coal Company. The time and expense required to respond to issues of the magnitude of this TDN only fosters the bureaucratic process to the ultimate discredit of SMCRA.

Sincerely,



Lowell P. Braxton  
Administrator  
Mineral Resource Development  
and Reclamation Program

jr

cc: A. King, Genwal Coal Company  
K. May  
J. Helfrich  
0945R/36:42

J. Leatherwood  
S. Linner  
P.F.O.

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